

## Authorizer Hopping: Motivations, Causes, and Ways to Stop It

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### THE ISSUE IN BRIEF

The charter school movement is premised on the exchange of increased autonomy for increased accountability. Individual schools are given more flexibility in their actions, but in exchange, the schools can be closed if they fail to fulfill the terms of their charter or achieve their stated goals.

However, charter schools that are identified for closure do not always shut their doors. As authorizers become more adept at identifying low performance and enforcing accountability provisions, some schools have become more adept at avoiding closure altogether. One way schools do this is by “hopping” to a new authorizer, commonly referred to as “authorizer hopping.”<sup>1</sup> The scenario is usually a variation of the following: an authorizer signals to a failing school their plans to revoke or not renew the school’s charter contract; the school seeks out a new authorizer who agrees to keep the school open; and the failing school, which was identified for closure, avoids accountability and remains open. Experience shows that authorizer hopping can happen as long as there is a single authorizer willing and able to accept this failed school. Authorizer hopping represents the breakdown of charter school accountability.

### NACSA RECOMMENDS

To prevent authorizer hopping, the National Association of Charter School Authorizers (NACSA) recommends that states employ a three-pronged approach that includes state policy, collaboration among authorizers, and public transparency.

1. States should enact policy that
  - » regulates the transfer of charter schools from one authorizer to another to prevent authorizer hopping;
  - » prevents charter schools that are closed from securing a new authorizer;
  - » strengthens authorizing laws and holds authorizers accountable for their actions. This starts with clearly defined standards and expectations for authorizers and continues with regular authorizer reporting, evaluation, and, when necessary, sanctioning of failing authorizers.
2. Authorizers should *complement* state policy directives by sharing information on schools and operators among themselves to ensure that school quality drives decision making.
3. Research, policy, and news organizations should publicly share data that will identify and illustrate problems when they exist and explicitly call on authorizers to account for their actions.



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## The problem of authorizer hopping

Authorizer hopping happens when a low-performing charter school finds a new authorizer to avoid accountability measures, usually school closure. Depending on the jurisdiction, a school can hop by using one of two mechanisms:

- It can let its current contract expire or be formally non-renewed or revoked and pursue a successive new school contract with a new authorizer. In this scenario, the failed charter school's existing contract is terminated, but a new charter contract from the new authorizer enables the school to remain open.
- It can transfer to a new authorizer during the course of its charter term. This happens as it becomes clear, through regular school-level performance reports or other authorizer action, that the school will likely fail to uphold the terms of its charter, and its authorizer will revoke or not renew its contract. The new authorizer assumes responsibility for the charter school during the remainder of its charter term and is responsible for the subsequent renewal, which will likely be granted despite evidence of failed performance.

Consider what happened in Indiana when it became clear that nearly a quarter of schools sponsored by one of the state's biggest authorizers, Ball State University (BSU), ranked in the bottom 15 percent of schools statewide.<sup>2</sup> BSU made a bold move; it developed and implemented an accountability framework that led to the nonrenewal of seven of its charter schools the following year. Yet two of those schools remained open as public charter schools after hopping to new authorizers willing to sponsor them.<sup>3</sup>

## Why it happens

Why would an authorizer sponsor a low-performing charter school? Our interviews with authorizers and departments of education highlighted five reasons:

- 1. The absence of clear expectations for authorizers.** NACSA's *Principles & Standards for Quality Authorizing* outline the attributes of a high-quality authorizer, but at the state policy level, there is often little guidance for what constitutes a high-quality authorizer.<sup>4</sup> Consequently, authorizers have set widely varying standards not just for their schools, but also for their own roles and actions as authorizers. Contrary to sector standards, some authorizers have viewed their role more as an educational partner, involved in school-level implementation, than as an oversight body. In Indiana, for example, a new authorizer picked up one of the schools that BSU did not renew with the goal of becoming deeply involved in the school's turnaround efforts.<sup>5</sup>
- 2. Financial incentives for authorizing more schools.** The authorizers interviewed were quick to say that high-quality authorizing is no cash cow. Yet for some authorizers, adding schools to their portfolios and keeping schools in their portfolio offer financial benefits that trump school performance considerations.
  - **Providing services.** There is evidence to suggest that some unscrupulous organizations may enter into authorizing as a way to make money. In these instances, the authorizer may generate large sums of money not through authorizing activities, but by selling services to the schools it authorizes. In Ohio, for example, a number of authorizers sell management services, such as payroll and financial reporting, to their schools for tens of thousands of dollars each year.<sup>6</sup>
  - **Operating at scale.** Authorizers often receive little state funding to operate, and therefore fund their operating expenses by charging charter schools a fee, often between one and three percent of the school's per-pupil funding. Consequently, the authorizer must sponsor some minimum number of schools to keep even one dedicated staff person on the payroll. Particularly in the absence of authorizer accountability, some authorizers may choose to expand their portfolio to meet the goal of financial solvency, even at the expense of school quality.
- 3. Lack of communication and collaboration among authorizers.** In many states, authorizers do not communicate regularly with one another. They have no mechanism for sharing information about a school that is hopping and no uniform system for addressing and assessing school transfers. In Ohio, for example, there are nearly 70 authorizers, but few channels for many of them to work together. As a result, the receiving authorizer sometimes does not know the extent of the problems that existed at the charter school before it applied to switch.

4. **Disagreement over the purpose of charter schools.** Some authorizers do not consider high student outcomes the primary purpose of charter schools. Rather, they believe in school choice for the sake of choice, the potential of competition and innovation to drive reform, or that true accountability is solely in the hands of the free market as reflected by the community's enrollment choices. Others contend that a low-performing charter school may still be valuable if it provides a safer learning environment than traditional public school options, especially when other high-quality schools are not available to students. For these reasons, some authorizers do not believe that charter schools should be closed in response to low performance.
5. **Politics and procedures make it easier to let the school hop to a new authorizer than pursue permanent closure.** In many instances, it is simply easier for an authorizer to allow a low-performing charter school in its portfolio to leave than it is to close the school down. Removing a failing charter school from an authorizer's portfolio, by any means, makes the authorizer's remaining portfolio of schools appear higher performing. When closures can lead to litigation and appeals—including the possibility a school will prevail and stay open in the authorizer's portfolio—it may be easier and more expedient for an authorizer to improve its collective performance by allowing a school to hop away, rather than by pursuing permanent closure. Ultimately, authorizer hopping could be perceived as politically advantageous to all three of the primary parties involved. The outgoing authorizer can shed a low-performing school and avoid a difficult public debate about whether the school deserves to close, the new authorizer can generate funds, and the charter school can continue operating. In other words, authorizer hopping provides an avenue for each of these parties to solve *its individual problem*, but it creates a much larger problem for the school's students, that state's charter sector as a whole, and the taxpayers who support education.

## Factors in state law enable authorizer hopping

Misguided motivations may encourage authorizer hopping, but components of state laws make it possible.

**Legislative loopholes.** In some states, loopholes in the charter law allow schools that are non-renewed to make small changes and re-open as “new” schools. As of 2013, seven Ohio charter schools forced to close for under-performance reopened the next year as “new” schools, although nothing at those schools had substantially changed. In some cases, even the school building remained the same.<sup>7</sup> Recent changes proposed in Ohio may address these problems. According to state law, a charter school in Ohio must develop a new plan, find new leadership, and appoint a new board before it can apply to re-open as a new school. In some cases, schools have met the letter of the law, if not the spirit, by changing a single board member, hiring some new staff, and revising the curriculum slightly. In other instances, they have not taken even those steps. Under the Ohio law, it ultimately falls to the new authorizer to examine a charter school's application and determine if the school is in fact “new” or not, and as long as a few authorizers are willing to approve these “new” schools, the problem will persist absent new legislation.

**Unrestricted transfers.** Few state laws contemplated the possibility of a charter school transferring between authorizers when they were created. By default, this often leads to a permissive transferring environment where individual authorizers are left to create their own disparate practices as the need arises. In addition to fostering authorizer hopping, a permissive transfer environment creates a disincentive for authorizers to invest time and energy in their charter schools for fear that the school might abandon the authorizer, taking the authorizer's investment with them.

One easy fix for authorizer hopping would be to prohibit schools from transferring authorizers altogether. However, while rare, there are some compelling reasons unrelated to non-renewal or revocation concerns why a charter school may want to change authorizers. Interviewees disagreed about which reasons for transferring should be valid, but generally believed that the right should be protected by statute. They agreed that the list of valid reasons for transfers is short. For example, when an authorizing entity decides to close its authorizing office, as was the result of 2009 legislation in Minnesota those “orphaned” schools needed to find a new authorizer. There are also cases of schools seeking to transfer to a district authorizer that may offer a subsidized facility and better financing to a desirable school. Neither example involves a school seeking to avoid accountability.

**Growth in the number of authorizers.** Finally, as the number of authorizers in some states has grown, the potential for a low-performing charter school to find another sponsor has also increased (See sidebar, “How Many Authorizers *Should* There Be?”). The existence of multiple authorizers is supposed to provide a check on the possibility that the lone authorizer in a jurisdiction will become hostile to charter schools or develop undesirable or unchecked behaviors over time. This could include over regulation, biased decision making, or moratoriums on new schools.

However, more authorizers mean more opportunities for a low-performing school to find an authorizer it can hop to, especially if doing so is in the authorizer’s interest. And in the absence of clear expectations or accountability for authorizers in some states, the growth in the number of authorizers has also allowed for more low-quality authorizers to enter the market. Our research found that smaller authorizers overseeing just one or two schools were much more likely to allow a low-performing school to join its portfolio, compared to larger, more established (and often more thoughtful) authorizers.

### A three-pronged approach to curb authorizer hopping

No single strategy is likely to curb authorizer hopping entirely. Rather, a combination of three essential strategies can together have the greatest impact: legislative action governing authorizers and charter schools; industry collaboration by authorizers; and public transparency from news, research, and policy groups (See sidebar, “The Need for a Three-Pronged Approach”). It is often much easier to implement these policies in states establishing new charter laws or before authorizer hopping becomes an issue than after the fact.

#### 1. Start with State Policy

Legislative action represents a starting point for addressing authorizer hopping. Policies that aim to tackle authorizing hopping directly and those that strengthen authorizing more generally are both critical parts of the solution. In states considering adding new authorizers, these policies should be established in the same legislation that creates the new authorizers to stop authorizer hopping before it ever starts.

**Explicitly regulate school transfer and closed schools.** Several states where authorizer hopping has taken place have passed legislation specifically aimed at blocking it. These concepts can be applied to places where authorizer hopping is occurring as well as places where authorizing hopping could arise from the creation of additional authorizers. These laws

- *place limits on transfers.* Limit the conditions in which a charter school can transfer authorizers. This could include requiring third-party approval before a school can transfer authorizers (such as from the Department of Education) or prohibiting or imposing conditions on the transfer of chronically low-performing schools. A 2009 charter law in Minnesota requires that when a charter school wants to transfer authorizers, both the incoming and outgoing authorizers must grant their approval or the transfer cannot take place.

### How Many Authorizers *Should* There Be?

If one authorizer is too few and 100 is too many, how many authorizers should a state have? There is no magic number, but the interviewees we spoke to from various state departments of education and charter school organizations generally agree that the best number can probably be counted on one hand. Interviewees pointed to evidence that an authorizer marketplace that is too large inevitably leads to lower-quality options as they compete with one another. “Are multiple authorizers a good thing? Yes. But there’s a point of diminishing return,” James Goenner, president and CEO of the National Charter Schools Institute explained. “Authorizers that are unwilling or unable to serve as a force for quality are part of the problem—not the solution.” Fewer, high-quality authorizers are therefore preferable to more authorizers of varied quality.

- *require chronically low-performing charter schools to close.* Default closure laws ensure that chronically low-performing charter schools are closed irrespective of their authorizer or history of authorizers. Eight states currently have enforceable default closure laws. In addition, laws should ensure that schools closed for performance remain closed and prohibit authorizers from authorizing schools that have been closed. In 2011, Ohio revised its charter closure law, which requires that authorizers close schools rated in “Academic Emergency” for at least two of the previous three school years.<sup>8</sup>
- *identify an entity to handle exceptions.* Exceptional circumstances do arise and state policy needs to identify which entity can determine if there is a legitimate exception that needs to be made. In 2013, Indiana enacted new legislation that requires any school that has been non-renewed to submit a proposal to the state board describing how it will address its deficiencies. A new authorizer can sponsor the school only if the state board approves the proposal.

In addition, new laws should address any potential loopholes in the state’s charter laws, such as clearly defining what constitutes a “new” school and restricting the amount of money that the authorizers can receive for services rendered.

**Set and support minimum performance standards for authorizers while practicing authorizer accountability.**

Good authorizing policies can also address many of the motivations for authorizer hopping described above. They prevent authorizer hopping by setting a minimum floor for authorizing actions and establish basic authorizer accountability. These policies have the added benefit of impacting all authorizing activities in the state, through the entire lifecycle of a charter school, and should aim to

- clearly define the primary purpose of charter schools as providing a high-quality educational option for students;
- set a high bar for attaining and retaining the power to authorize, including submitting for state approval a plan that includes a clear and transparent process for approving new charter applications and evaluating the schools in their portfolios in order to prevent authorizing hopping;

## The Need for a Three-Pronged Approach

Preventing authorizer hopping requires three components: legislative action, industry collaboration by authorizers, and public transparency.

On their own, any of these options could overwhelm.

Industry collaboration by authorizers, for example, relies on the voluntary participation of all authorizers in any given jurisdiction. However, it is unlikely that, absent pressure to do so, all charter authorizers will voluntarily take the tough stand on charter quality that is needed, either from new laws or public calls for action. Barring these two essential strategies, a single rogue authorizer willing to accept hopping schools is enough to destabilize accountability for all the other authorizers.

In fact, according to authorizers we spoke to in three states, high-quality authorizers were among the strongest supporters of new laws aimed at curbing authorizer hopping and raising authorizer quality as a way to improve student performance. Ultimately, authorizers want to know that if they decide to close a school due to low performance, that decision will stick, and its students will have an opportunity to find a better educational option.

At the same time, overly prescriptive state policies could over-regulate the authorizing process, removing oft-needed discretion to make difficult decisions through the use of narrow definitions or processes. With the goal of policing the bad authorizers in the state, poor legislation could also stifle authorizers’ ability to act in the nuanced way sometimes demanded of them. Ultimately, the right set of policies should reflect a balancing act that includes legislation, industry collaboration, and public transparency.

- adopt standards for charter school authorizing, such as NACSA's *Principles & Standards for Quality Charter School Authorizing*, to create universal expectations for authorizer practices;
- evaluate authorizers on how well they meet those expectations for authorizer practice;
- require authorizers to publicly report on the academic, fiscal, and operational health of the schools in their portfolios;
- set clear expectations for how and when the state will hold authorizers accountable for the performance of schools in their portfolios and authorizer actions;
- empower the state to take action if an authorizer fails to meet those expectations for portfolio or authorizer performance, including imposing sanctions on or closing the authorizer, if need be;
- fund authorizers in a way that minimizes incentives to approve or renew low-performing schools.

Minnesota provides an example of recent policy change in these areas. The state has adopted a series of new laws and charter language in the last five years. In 2009, the state passed a new law that requires all authorizers—including existing authorizers—to submit a plan to the state explaining how they will evaluate their charter schools and to receive approval from the state to serve as an authorizer. In addition, in 2013 the state clarified that improving student learning and achievement is the primary purpose of charter schools, thus de-legitimizing one argument for accepting hopping schools. As a follow-up to these laws, the Minnesota Department of Education has worked closely with authorizers to establish new standards and expectations.

According to the authorizer leaders with whom we spoke, these legislative actions have been a game changer in Minnesota. Today, there are 26 authorizers, down from 55 in 2009, the year the new law was passed. And while eight charters transferred authorizers the year before the law was enacted, just three schools have done so in the two years since the legislation was fully implemented.<sup>9</sup> Interviewees in Minnesota recognize that authorizer quality is still not where it needs to be, but low-performing charter schools now know that they cannot avoid accountability for student performance by finding a sympathetic authorizer.

## 2. Complement Policies with Industry Collaboration

According to our interviewees, state legislation can have a monumental impact on authorizer hopping by establishing new rules. But the legislative options described above work best when authorizers complement those efforts through cooperation and collaboration.

In Indiana, three authorizers sponsor approximately 90 percent of charter schools in the state. The “big three” recently began meeting informally, sometimes with other authorizers joining, as well. During these meetings, they discuss shared challenges and brainstorm possible solutions. In addition, when any of the authorizers moves to deny a charter application or non-renew a school, they share data and discuss their decision. According to all three authorizers, as a result of these meetings and their shared focus on charter school performance, it is highly unlikely that any one of them would sponsor a charter school that another has denied or closed.

Of course, willing authorizers can self-regulate through authorizer cooperation and communication, but it is often authorizers outside of these groups that will accept a low-performing school into its portfolio. Self-regulation and authorizer communication do not impact these authorizers, and as such, state policy provides a necessary measure to create and enforce uniform policies against authorizer hopping.

## 3. Reinforce Policies with Public Transparency

In addition to legislatures, departments of education, and authorizers, research, policy, and news groups can also play a meaningful role in curbing authorizer hopping. Research organizations have the ability to use data to identify and illustrate problems that might otherwise fly under the radar. Similarly, policy organizations such as the Thomas B. Fordham Institute in Ohio and The Mind Trust in Indiana can and have called out schools, authorizers, and departments of education when they have failed to live up to their promises to support student achievement. In addition, the news media can play a role raising issues and concerns for public discussion when they arise.

## Conclusion

As authorizers bolster their accountability measures, schools will increasingly turn to authorizer hopping to avoid closure. Well-designed policies and appropriate authorizer oversight by the state, the authorizing sector, and the public can help to address the causes and effects of authorizer hopping. Several states with a pronounced history of authorizer hopping are already implementing many of these new policies and learning from a three-pronged approach that draws on policy measures, authorizer collaboration, and public transparency.

NACSA recommends that states confronting authorizing hopping and/or considering the addition of new authorizers implement policies and practices that prevent authorizer hopping to ensure failing schools remain closed.

For more information on authorizer hopping and authorizing practices, visit the National Association of Charter School Authorizers: [www.qualitycharters.org](http://www.qualitycharters.org).

- 1 The process is sometimes referred to as “authorizer shopping.” We prefer to use “hopping” when it is done by an existing school. The expression “authorizer shopping” captures the process when charter applicants who have not yet been approved to open a school look around for the easiest authorizer from which to get their initial application approved, as opposed to “hopping” to a new authorizer after approval to avoid an impending closure.
- 2 The Associated Press. (December 23, 2012). “Ball State’s charter school oversight criticized.” *The Herald Bulletin*. [http://www.heraldbulletin.com/news/local\\_news/article\\_8a170e5f-66aa-500c-8893-5cbd9596805b.html](http://www.heraldbulletin.com/news/local_news/article_8a170e5f-66aa-500c-8893-5cbd9596805b.html)
- 3 Two other schools remained open as private schools, and the remaining three schools closed.
- 4 NACSA. (2012). *Principles & Standards for Quality Charter School Authorizing*. [http://www.qualitycharters.org/assets/files/images/stories/publications/Principles.Standards.2012\\_pub.pdf](http://www.qualitycharters.org/assets/files/images/stories/publications/Principles.Standards.2012_pub.pdf)
- 5 Shawgo, K. (August 12, 2013). “Trine oversees its 2nd charter: Hands-on method meets approval.” *Journal Gazette*. <http://www.journalgazette.net/article/20130812/LOCAL04/308129969/1026>
- 6 Bush, B. & Richards, J. (January 12, 2014). “Watchdogs can profit from charter school oversight.” *The Columbus Dispatch*. <http://www.dispatch.com/content/stories/local/2014/01/12/watchdogs-can-profit-from-oversight.html>
- 7 Livingston, D. (September 6, 2013). “Failing charter schools often close, reopen with little change.” *Akron Beacon Journal*. <http://www.ohio.com/news/education/failing-charter-schools-often-close-reopen-with-little-change-1.426798>
- 8 In addition, charters serving grades 4-8 must show that students made less than one year of academic growth in either reading or math during that time period.
- 9 Because so many authorizers closed as a result of the 2009 legislation, a large number of schools transferred to new authorizers for reasons unrelated to their performance. The window for these transfers related to authorizers closing ended in 2011.

The National Association of Charter School Authorizers (NACSA) is committed to advancing excellence and accountability in the charter school sector and to increasing the number of high-quality charter schools across the nation. To accomplish this mission, NACSA works to improve the policies and practices of authorizers—the organizations designated to approve, monitor, renew, and, if necessary, close charter schools. NACSA provides professional development, practical resources, consulting, and policy guidance to authorizers. It also advocates for laws and policies that raise the bar for excellence among authorizers and the schools they charter. For more on NACSA, please visit [www.qualitycharters.org](http://www.qualitycharters.org).

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